

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BOROUGH OF EDGEWATER,

Plaintiff,

v.

WATERSIDE CONSTRUCTION,
LLC; 38 COAH, LLC; DAIBES
BROTHERS, INC.; NORTH RIVER
MEWS ASSOCIATES, LLC; FRED A.
DAIBES; TERMS
ENVIRONMENTAL SERVICES,
INC.; ALCOA INC. (formerly known as
“Aluminum Company of America”);
ALCOA DOMESTIC LLC, as
successor in interest to A.P. NEW
JERSEY, INC.; JOHN DOES 1-100;
and ABC CORPORATIONS 1-100,

Defendants,

and

WATERSIDE CONSTRUCTION,
LLC; 38 COAH, LLC; DAIBES
BROTHERS, INC.; NORTH RIVER
MEWS ASSOCIATES, LLC; and
FRED A. DAIBES,

Defendants/Third-Party Plaintiffs,

v.

NEGLIA ENGINEERING
ASSOCIATES,

Third-Party Defendant,

Case Nos.: 2:14-CV-05060-JMV-
JBC / 2:14-CV-08129-MCA-LDW

Hon. John M. Vazquez, U.S.D.J.
Hon. James B. Clark, III, U.S.M.J.

**CERTIFICATION OF
DANA B. PARKER, ESQ. IN
SUPPORT OF ARCONIC INC.
AND ARCONIC DOMESTIC
LLC’S STATEMENT OF
MATERIAL FACTS AS TO
WHICH THERE IS NO
GENUINE ISSUE**

and

ALCOA DOMESTIC, LLC, as
successor in interest to A.P. NEW
JERSEY, INC.,

Defendant/Third-Party Plaintiff,

v.

COUNTY OF BERGEN and RIVER
ROAD IMPROVEMENT PHASE II,
INC., and HUDSON SPA, LLC,

Third-Party Defendants.

I, **DANA B. PARKER**, hereby certify:

1. I am an attorney at law of the State of New Jersey and counsel at the law firm K&L Gates LLP, attorneys for Defendants/Third-Party Plaintiffs Arconic Inc. (f/k/a Alcoa Inc.) and Arconic Domestic, LLC's (f/k/a Alcoa Domestic, LLC as successor in interest to A.P. New Jersey, Inc.) (collectively "Arconic"). I am fully familiar with the facts and circumstances herein.

2. Attached hereto as Exhibit 1 is a true and correct copy of Arconic Inc. and Arconic Domestic, LLC's Third Party Complaint Against Hudson Spa LLC, ECF No. 249, dated December 13, 2017 (Case 2:14-cv-05060).

3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the deposition testimony of Kevin McKnight, Vol. II, dated February 2, 2017.

4. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the deposition testimony of Kevin McKnight, Vol. IV, dated November 9, 2017.

5. Attached hereto as Exhibit 4 is a true and correct copy of the June 1997 Agreement to Purchase and Sell Real Estate for the Former Alcoa Inc. Edgewater Facility, bearing Bates Numbers A001387-A001406.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Fifth Amended Complaint, ECF No. 256, dated March 19, 2018 (Case 2:14-CV-05060-JMV-JBC).

7. Attached hereto as Exhibit 6 is a true and correct copy of the Defendant North River Mews Associates, LLC's Answers to Alcoa's First Set of Interrogatories, dated July 22, 2015.

8. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the deposition testimony of Kevin McKnight, Vol. III, dated November 8, 2017.

9. Attached hereto as Exhibit 8 is a true and correct copy of an undated note from K. L. McKnight to A. Daibes, bearing Bates numbers A003144 -A003145.

10. Attached hereto as Exhibit 9 is a true and correct copy of Letter from M. Novacky, Paralegal, Alcoa to A. Daibes, dated June 24, 1997, bearing Bates numbers A003138.

11. Attached hereto as Exhibit 10 is a true and correct copy of the Multi-Party Agreement, dated June 1, 1997, bearing Bates numbers A001367 - A001386.

12. Attached hereto as Exhibit 11 is a true and correct copy of Remedial Action Workplan Buildings #5, 7, and 9, dated August 3, 1997, bearing Bates numbers ENVIRO_001617-ENVIRO_001648.

13. Attached hereto as Exhibit 12 is a true and correct copy of the Remedial Action Work Plan, Buildings 11 and 12, dated September 1997, bearing Bates numbers EW 35388 - 35525.

14. Attached hereto as Exhibit 13 is a true and correct copy of excerpts from the Enviro-Sciences Inc., Phase I Environmental Site Assessment, dated May 2011, bearing Bates numbers ENVIRO_006608 - ENVIRO_006610; ENVIRO_006626.

15. Attached hereto as Exhibit 14 is a true and correct copy of the Funding Agreement, dated September 23, 1997, bearing Bates numbers A001504 - A001509.

16. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the deposition testimony of Fred Daibes, Volume II, dated July 18, 2017.

17. Attached hereto as Exhibit 16 is a true and correct copy of excerpts from the Remedial Investigation Report Remedial Action Report, by Enviro-Sciences, Inc., dated August 2002, bearing Bates numbers ENVIRO_003218 - ENVIRO_003219; ENVIRO_003255.

18. Attached hereto as Exhibit 17 is a true and correct copy of the Environmental Indemnity Agreement, dated March 13, 1999, bearing Bates range A001532 - A001535.

19. Attached hereto as Exhibit 18 is a true and correct copy of North River's Deed Notice, dated January 14, 2003, bearing Bates range EW 04313 - EW 04327.

20. Attached hereto as Exhibit 19 is a true and correct copy of the letter from J. A. Millett, P.E. to F. Ahmad, dated January 18, 2001, bearing Bates number A001867.

21. Attached hereto as Exhibit 20 is a true and correct copy of the NJDEP Restricted Use No Further Action letter, dated February 12, 2003, bearing bates range EW 04328-EW 04334.

22. Attached hereto as Exhibit 21 is a true and correct copy of the letter from the NJDEP to Glen Donlon, Daibes Brothers Inc., dated September 17, 2010, bearing Bates range W001831-W001843.

23. Attached hereto as Exhibit 22 is a true and correct copy of the Enviro-Sciences (of Delaware) Inc. Letter to Glen Donlon, Daibes Brothers, Inc., dated October 27, 2010, bearing Bates numbers ENVIRO_006059 - ENVIRO_006061.

24. Attached hereto as Exhibit 23 is a true and correct copy of Defendant North River Mews Associates, LLC's Answers to Borough of Edgewater's First Set of Interrogatories, dated July 22, 2015.

25. Attached hereto as Exhibit 24 is a true and correct copy of the Ground Lease between North River Associates, LLC and E. Rae Jo, dated April 5, 2010, bearing Bates numbers HUD 0000044 - HUD 000072.

26. Attached hereto as Exhibit 25 is a true and correct copy of excerpts from the deposition testimony of Eunrae Jo, Volume I, dated April 12, 2017.

27. Attached hereto as Exhibit 26 is a true and correct copy of the AIA Document A107 - 2007, Standard Form of Agreement between Owner and Contractor for a Project of Limited Scope, dated November 27, 2012, bearing Bates numbers W080585-W080603.

28. Attached hereto as Exhibit 27 is a true and correct copy of Third-Party Defendant River Road Improvement Phase II, Inc.'s Responses to Alcoa's Requests to Admit, (Case 2:14-CV-08129), dated May 19, 2017.

29. Attached hereto as Exhibit 28 is a true and correct copy of excerpts from the Investigation/Remedial Action Report/Remedial Action Workplan for Former Alcoa Building 12, dated March 5, 2015, bearing Bates numbers W009630 and W009659.

30. Attached hereto as Exhibit 29 is a true and correct copy of excerpts from the S&S Environmental Sciences, Inc. NJDEP Lab Certification No. 07073, dated September 23, 2013, bearing Bates number W001545-W001548.

31. Attached hereto as Exhibit 30 is a true and correct copy of excerpts from the Self Implemented Disposal Plan for Former Alcoa Building 12, PennJersey Environmental Consulting, dated July 18, 2014, bearing Bates numbers W009423, W009445 - W009450.

32. Attached hereto as Exhibit 31 is a true and correct copy of an email dated February 3, 2014 from William P. Call, P.G., LSRP, Vice President, PennJersey Environmental Consulting, to John M. McNally bearing Bates numbers W079532-W079535.

33. Attached hereto as Exhibit 32 is a true and correct copy of an email from M. Slowinski to J. Lettrich, dated March 18, 2014, bearing Bates numbers W080580-W080581.

34. Attached hereto as Exhibit 33 is a true and correct copy of the Borough of Edgewater Contract - Form, dated June 27, 2012, bearing Bates number EW 08488 - EW 08557.

35. Attached hereto as Exhibit 34 is a true and correct copy of the Borough of Edgewater Resolution, dated March 18, 2013, bearing Bates number W003490.

36. Attached hereto as Exhibit 35 is a true and correct copy of excerpts from the deposition testimony of Kenneth E. Schiller, Jr., dated June 22, 2017.

37. Attached hereto as Exhibit 36 is a true and correct copy of the Site Remediation Instructions bearing Bates numbers EW 21241-EW 21242.

38. Attached hereto as Exhibit 37 is a true and correct copy of excerpts from the Specifications for Veteran's Field Improvements, dated April 2012, bearing Bates numbers EW 08558 and EW 08674.

39. Attached hereto as Exhibit 38 is a true and correct copy of the letter to Neighbor from Borough of Edgewater, dated June 26, 2014, bearing Bates number EW 22188.

40. Attached hereto as Exhibit 39 is a true and correct copy of excerpts from the Remedial Investigation Report/Remedial Action Workplan, Veterans Field, Edgewater, New Jersey, dated October 10, 2014, bearing Bates numbers EW 11016, EW 11024.

41. Attached hereto as Exhibit 40 is a true and correct copy of the March 22, 2014, news article by Svetlana Shkolnikova, entitled *Edgewater considers grade raise at Veterans Field*, Edgewater View.

42. Attached hereto as Exhibit 41 is a true and correct copy of the Veterans Field Improvements Change Order No. 4, dated March 13, 2017, bearing Bates numbers EW 38711-EW 38712.

43. Attached hereto as Exhibit 42 is a true and correct copy of the Neglia Engineering Associates, Engineer's Certificate No. 1, dated September 12, 2012, bearing Bates numbers EW 23437- EW 23442.

44. Attached hereto as Exhibit 43 is a true and correct copy of the Neglia Engineering Associates, Engineer's Certificate No. 10, dated April 11, 2013, bearing Bates numbers W009188-W009193.

45. Attached hereto as Exhibit 44 is a true and correct copy of excerpts from the deposition testimony of Matthew Vereb (Vol. I), dated February 15, 2017.

46. Attached hereto as Exhibit 45 is a true and correct copy of excerpts from the deposition testimony of Jason Menzella, dated August 11, 2016.

47. Attached hereto as Exhibit 46 is a true and correct copy of excerpts from the deposition testimony of Mark Iafelice, dated June 21, 2017.

48. Attached hereto as Exhibit 47 is a true and correct copy of the letter from R. Dooney, President, LSRP, TERMS, to G. Franz, Edgewater Borough Administrator dated October 3, 2013 bearing Bates number W000174.

49. Attached hereto as Exhibit 48 is a true and correct copy of the letter from M. Vereb, Director of Operations, Waterside Construction, LLC, to M. Neglia, Neglia Engineering Associates, dated October 9, 2013, bearing Bates number EW 12063.

50. Attached hereto as Exhibit 49 is a true and correct copy of the USEPA, Region 2, Consent Agreement and Final Order, Docket No. TSCA-02-2015-9101, dated September 29, 2015, bearing Bates numbers W077042-W077055.

51. Attached hereto as Exhibit 50 is a true and correct copy of the Borough of Edgewater Resolution No. 2014-136, dated May 19, 2014, bearing Bates numbers EW 36105 - EW36106.

52. Attached hereto as Exhibit 51 is a true and correct copy of the October 3, 2014, letter from Gregory S. Franz, Borough of Edgewater Administrator & Thomas C. Bambrick, LSRP, First Environment, Inc. to Borough of Edgewater Residents, located at <https://www.edgewaternj.org/DocumentCenter/View/146/Commencement-of-Remediation-October-13-2014-PDF>, last accessed on September 8, 2020.

53. Attached hereto as Exhibit 52 is a true and correct copy of an excerpt from Fred A. Daibes, North River Mews Associates, LLC, Waterside Construction, LLC, 38 COAH, LLC, Daibes Brothers, Inc., Amended Answer to Plaintiff's First Amended Complaint, Affirmative Defenses, Counterclaims, Amended Cross-claims and Third-Party Complaint, ECF No. 24, (Case 2:14-cv-05060), dated December 5, 2014.

54. Attached hereto as Exhibit 53 is a true and correct copy of an excerpt from TERMS Environmental Services, Inc.'s Answer to Plaintiff's Fifth Amended Complaint with Affirmative Defenses with Counterclaims and Cross-Claims, ECF No. 258 (Case 2:14-cv-05060), dated April 13, 2018.

55. Attached hereto as Exhibit 54 is a true and correct copy of an excerpt from Alcoa Inc. and Alcoa Domestic LLC's Answer to Plaintiff's First Amended Complaint, Affirmative Defenses and Cross-claims against A.P. New Jersey, Inc., Aluminum Company of America, TERMS Environmental Services, Inc., dated November 21, 2014, ECF No. 20 (Case No. 2:14-cv-05060).

56. Attached hereto as Exhibit 55 is a true and correct copy of A.P. New Jersey's Third Party Complaint against County of Bergen, New Jersey, River Road Improvement Phase II, Inc., ECF No. 23 (Case 2:14-cv-05060), dated December 5, 2014.

57. Attached hereto as Exhibit 56 is a true and correct copy of North River Mews Associates, LLC and 38 COAH Associates, LLC's Second Amended Complaint and Jury Demand, ECF No. 28 (Case No. 2:14-cv-08129), dated September 28, 2015.

I certify that the foregoing statements by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: Newark, New Jersey
September 11, 2020

By: s/ Dana B. Parker
Dana B. Parker, Esq.
K&L GATES LLP
One Newark Center, Tenth Floor
Newark, NJ 07102
(973) 848-4000
*Attorneys for Arconic Inc. (f/k/a Alcoa
Inc.) and Arconic Domestic, LLC
(f/k/a Alcoa Domestic, LLC as
successor in interest to A.P. New
Jersey, Inc.)*